

## **VILLAGE COUNCIL REGULAR MEETING OF DECEMBER 2, 2015**

The Village of Estero Council Regular Meeting was held on this date at the Estero Fire Rescue District Meeting Room, 21500 Three Oaks Parkway, Estero, Florida.

Present: Mayor Nick Batos - District 6, Vice-Mayor Howard Levitan - District 2, Councilmember Bill Ribble - District 1, Councilmember Donald Brown - District 3, Councilmember Katy Errington - District 4, Councilmember Jim Boesch - District 5, and Councilmember Jim Wilson - District 7.

Also present: Village Manager Steve Sarkozy, Village Attorney Burt Saunders, Finance Director Lisa Pace, Community Development Director Mary Gibbs, and Village Clerk Kathy Hall.

### **1. CALL TO ORDER**

Mayor Batos called the meeting to order at 10:00 a.m.

### **2. PLEDGE OF ALLEGIANCE**

Mayor Batos led the Pledge of Allegiance.

### **3. INVOCATION**

The invocation was offered by Pastor Tim Carson from Estero United Methodist Church.

### **4. ROLL CALL**

Village Clerk Kathy Hall called the roll; all members were present.

### **5. APPROVAL OF AGENDA**

Mayor Batos noted that agenda items 7 (F) and (G) were to be removed from the agenda. Councilmember Brown moved approval of the agenda as amended, seconded by Councilmember Boesch, called and carried unanimously.

### **6. CONSENT AGENDA**

(A) Approval of October 28, 2015 Regular Workshop Minutes

Councilmember Ribble moved approval of the Consent Agenda, seconded by Councilmember Errington, called and carried unanimously.

## **7. COUNCIL BUSINESS**

- (A) Second Reading and Public Hearing: Ordinance No. 2015-18 An Ordinance of the Village Council of the Village of Estero, Florida, Approving the Second Budget Amendment for Fiscal Year 2015-2016; and Providing an Effective Date

The title of Ordinance No. 2015-18 was read by Village Clerk Hall.

Mayor Batos opened the hearing, called for public comment, and no one came forward.

Finance Director Lisa Pace provided an explanation of the ordinance and noted amendments made to the second sentence of the last "Whereas" beginning on line 36: "~~Staff~~ It is recommending ed that the Village establish a Capital Projects fund to account for the restricted Impact Fee funds as well as the future Capital Improvement Projects."

Councilmember Ribble moved to adopt Ordinance No. 2015-18 as amended, seconded by Councilmember Errington, called and carried unanimously through a roll call vote.

- (B) First Reading: Ordinance No. 2015-20 An Ordinance of the Village Council of the Village of Estero, Florida, Amending the Land Development Code, Chapter 2, Article VI, Impact Fees, Division 2, Roads Impact Fees, Section 2-266 Revising the Roads Impact Fee Schedule to Update the Calculations of the Full Costs; Providing for Conflict; Providing for Severability; and Providing an Effective Date

The title of Ordinance No. 2015-20 was read by Village Clerk Hall.

Mayor Batos called for public comment and no one came forward.

Vice Mayor Levitan provided amended language for the "Whereas" beginning on lines 37 and 41 to read: "**WHEREAS**, the study ~~prepared~~ provided by Duncan Associates, entitled "Road Impact Fee Study – Lee County, Florida", dated January 2015, which includes data from Estero, forms the basis of the proposed amendments herein and the findings of such report ~~is~~ are hereby adopted by the Council; and **WHEREAS**, the Duncan Associates study findings and revised fee schedule relies on the use of a sophisticated methodology to determine the impacts of development in an effort to establish an appropriate level of impact fees based on most recent localized data; and"

Council discussion followed regarding the amendments, as well as the Planning and Zoning Board review of the ordinance.

Councilmember Wilson moved approval of the first reading of Ordinance No. 2015-20 and that the ordinance be moved to second reading, seconded by Councilmember Ribble, called and carried unanimously through a roll call vote.

- (C) First Reading and Public Hearing: Ordinance No. 2015-19 An Ordinance of the Village Council of the Village of Estero, Florida, Amending Chapter 34, Zoning, Article VII, Supplementary District Regulations, Division 15, Estero Land Development Code, to Limit Certain Excavation Activities Relating to Well Stimulation Including Acid Stimulation and Hydraulic or Acid Fracturing; Providing for Codification; Providing for Conflict with Other Ordinances; and Providing for an Effective Date

The title of Ordinance No. 2015-19 was read by Village Clerk Hall.

Mayor Batos opened the public hearing and called for public testimony.

Public Testimony:

Phil Gresh, Shadow Wood resident, stated he was against the Bill introduced by Representative Rodrigues and addressed concern regarding fracking. (Provided written materials)

Ray Judah, Florida Coastal and Ocean Coalition, encouraged the Council to move forward with the ordinance and resolution.

Larry Newell, Fountain Lakes resident, stated that this needed to be carried on to Congress in firm terms.

Noah Kugler, Professional Geologist, representing Conservancy of Southwest Florida, spoke to concern regarding fracking and responded to questions from Councilmembers.

Peter Cangialosi, noted that the Council was not alone in what they were doing regarding fracking and read from information that he provided from the *Tallahassee Democrat*. (Provided written materials)

Ralf Brookes, Attorney, Conservancy of Southwest Florida, stated that they supported the ordinance; fracking was not appropriate for Estero; and addressed Home Rule power. He also responded to questions from the Council. (Provided written materials)

Jennifer Hecker, Director of Natural Resource Policy, Conservancy of Southwest Florida, conveyed appreciation that the Council was going forward with the ordinance; addressed concern regarding recent House Bills; and responded to questions from the Council.

Phil Douglas, Lighthouse Bay resident, stated that Representative Rodrigues was representing the petroleum business; the Council was representing Estero residents. He believed that the ordinance was a powerful message.

Donna Knapp, Pine Ridge resident, conveyed appreciation to the Council.

Julie Gerhard (no address given) conveyed appreciation to the Council for supporting the ordinance.

No further public testimony; the hearing was closed.

Council discussion ensued.

Councilmember Ribble moved to approve first reading of Ordinance No. 2015-19 and that the ordinance be moved to second reading, seconded by Councilmember Errington, called and carried unanimously through a roll call vote.

- (D) Resolution No. 2015-77 A Resolution of the Village Council of the Village of Estero, Florida, Supporting a Statewide Ban on Well Stimulation Including Acid Stimulation and Hydraulic or Acid Fracturing for the Purposes of Oil or Natural Gas Exploration or Production in the State of Florida; Requesting that the Legislature Make No Attempt to Preempt Local Government Efforts to Ban Such Activities; and Providing an Effective Date

The title of Resolution No. 2015-77 was read by Village Clerk Hall.

Mayor Batos called for public comment.

Public Comment:

Nancy Koerner, Naples resident, addressed concern regarding fracking and supported the resolution.

Larry Newell, Fountain Lakes resident, addressed support for the resolution.

Vice Mayor Levitan moved that all written testimony received under agenda items (C) and (D) be forwarded to the Council, seconded by Councilmember Wilson, called and carried unanimously.

Discussion followed related to providing a copy of the resolution to the Lee County Commission and the State Legislature. Village Attorney Saunders responded that he could deliver a copy to the Speaker of the House and Senate President, as well as the chairman of the Lee County Commission.

Councilmember Errington moved to adopt Resolution No. 2015-77, seconded by Councilmember Brown, called and carried unanimously through a roll call vote.

- (E) Resolution No. 2015-78 A Resolution of the Village Council of the Village of Estero, Florida, Approving Language to Amend the Village of Estero Charter, Section 11(2)(C) – Amendments to the Charter, Requiring the Charter to be Amended by a Vote of at Least Sixty Percent of the Electors Voting on the Amendment; Requesting that Florida House Member Ray Rodrigues Present the Revised Charter Language to the Florida Legislature in the 2016 Legislative Session; and Providing an Effective Date

The title of Resolution No. 2015-78 was read by Village Clerk Hall.

Village Attorney Saunders provided an explanation of the resolution.

Mayor Batos called for public comment and no one came forward.

Vice Mayor Levitan moved to adopt Resolution No. 2015-78, seconded by Councilmember Wilson, called and carried unanimously through a roll call vote.

- (F) Resolution No. 2015-79 A Resolution of the Village Council of the Village of Estero, Florida, Approving the Interlocal Agreement for Municipal Solid Waste Collection, Customer Services, Billing, and Disposal Between the Village of Estero and Lee County; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date

Note: This item was removed from the agenda.

- (G) Resolution No. 2015-80 A Resolution of the Village Council of the Village of Estero, Florida, Approving the Interlocal Agreement for Disposal Facilities Assessment Between the Village of Estero and Lee County; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date

Note: This item was removed from the agenda.

#### **8. PUBLIC INPUT ON NON-AGENDA ITEMS**

Beverly MacNellis, Marsh Landing resident, reminded Council of the "Light up Estero Event" as well as the February 18, 2016 gala premier showing of a film regarding Mount Key. She also inquired regarding the Comprehensive Plan and Bill Spikowski. Vice Mayor Levitan provided information and explanation.

#### **9. COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS**

Councilmember Ribble reported that the bids for the new Village Hall would be submitted by December 10, 2015.

Councilmember Errington reported that she contacted Community Development Director Gibbs regarding some of the code items that need enforcing in her area. She also spoke regarding the landscaping along Three Oaks Parkway and turning onto Estero Parkway. Mayor Batos responded that landscaping was part of the FGCU program and was scheduled to part of the Capital Improvement Program.

#### **10. VILLAGE ATTORNEY COMMENTS**

None.

#### **11. VILLAGE MANAGER COMMENTS**

None.

## **12. ADJOURN**

Councilmember Ribble moved to adjourn, seconded by Councilmember Brown, called and carried unanimously.

Mayor Batos adjourned the meeting at 11:35 a.m.

ATTEST:

By: Kathy Hall

Kathy Hall, MMC  
Village Clerk

VILLAGE OF ESTERO, FLORIDA

By: Nicholas Batos

Nicholas Batos  
Mayor

Minutes approved as submitted: January 6, 2016